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Project Report

BRITISH COLUMBIA FINANCIAL REVIEW: THE ISSUE OF FINANCIAL LEGISLATION

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Executive Summary—Financial Legislation

This report reviews all major legislation which controls the government's financial activities. The statutes include the Financial Administration Act, the Taxpayer Protection Act, the Budget Stabilization Fund Act, and the Privatization Benefits Fund Act.

Key findings and recommendations are as follows:

- The Budget Stabilization Fund was ineffective in stabilizing the operating revenue of the government and was used to obfuscate the financial results of the General Fund. It is recommended that the Budget Stabilization Fund Act not be reintroduced.

- The Taxpayer Protection Act was insufficient to effectively manage the province's finances:

  - the two rate freeze sections do not permit the government the flexibility to consider revenue policy and expenditure policy together.

  - the Balanced Budget Plan does not provide an effective mechanism, in its existing form, for adequately monitoring revenues and expenditures on a year-over-year basis.

  The Taxpayer Protection Act should be repealed and replaced with new legislation or with a highly visible government policy which should incorporate the needed changes to effect appropriate fiscal control.

- The Financial Administration Act be changed to provide:

  - more public influence over the financial affairs of Crown agencies and other public bodies.

  - a requirement that the government justify in writing all requests to spend money by special warrant.

  - consideration of ways to allow a portion of important appropriations to be carried forward from one year to the next.

- The purpose and operation of the Privatization Benefits Fund be reviewed and revisions made as indicated.

- Overall, the statutory means available to structure and control the province's financial affairs require substantial revision, in support of deficit reduction and sound management.

The Issue of Financial Legislation

A. Introduction and summary

A variety of financial legislation exists in the province to provide the legislative framework by which financial management and control is exercised over the government's activities. The principles underlying financial administration in government stem from the traditional right of the Legislative Assembly to maintain control of public funds. As part of the Financial Review, we have reviewed relevant legislation to ensure that the current requirement for effective financial management and control is properly reflected. We focused our review on the primary piece of financial legislation, the Financial Administration Act, but we also reviewed other relevant pieces of legislation: the Taxpayer Protection Act, the Budget Stabilization Fund Act and the Privatization Benefits Fund Act.

The Financial Administration Act is the principal authority for financial management and control: it outlines the delegation of responsibility and authority for financial administration and ensures that those responsible for controlling and managing public resources are held accountable for their stewardship.

Summary of recommendations

- The Financial Administration Act currently empowers Treasury Board and the Minister of Finance and Corporate Relations with certain duties and responsibilities with respect to effective government financial management and controls. Sufficient authority should be exercised by these appointees, or their designates, to ensure there is an adequate central control framework, commensurate with delegated responsibility and authority, over the financial administration of the government.

- Consideration should be given to amend the Financial Administration Act to incorporate the activities of Crown corporations and agencies. Alternatively, new legislation should be considered for providing adequate financial management and control over Crown corporations and agencies. These amendments would stress the need for policies and procedures for reporting on performance, operating efficiency and effectiveness and actual outcomes, as well as require greater accountability with respect to budgets and operating plans and financial reporting activities.

- Other amendments to the Financial Administration Act should be made which would include the following:

    - bolstering provisions for better central control over revenues
    - considering mechanisms to allow for a portion of unspent appropriations to be carried forward from one year to the next
    - removing reference to Full Time Equivalents
    - requiring an annual statement of all special warrants and an explanation of their urgency in the Public Accounts
    - recognizing the existence of different ways of conducting government activities, such as, for example, through Special Operating Agencies or enterprise accounts
    - defining the government's principal or Summary Financial Statements which are required to report on its overall financial condition and results of operations
    - providing better authority for bringing valuation allowances before Treasury Board as part of the budget process.

- Overall, the concepts of a Debt Reduction Plan and Balanced Budget Plan are sound; indeed they are fundamental to establishing an effective deficit reduction strategy. We question, however, whether they should reside in the Taxpayer Protection Act. We recommend repealing the Taxpayer Protection Act and that consideration should be given to either replacing it with new legislation or with a highly visible government policy document, possibly presented as part of the budget papers.

- Although there may be some merit in using stabilization funds to allow for some form of stability in fiscal planning, the Budget Stabilization Fund was not an effective mechanism and the Budget Stabilization Fund Act should not be re-introduced.

- The purpose and operation of the Privatization Benefits Fund Act should be evaluated and, as appropriate, the Act should be amended or new legislation introduced to accommodate a more focused and well-defined purpose and function.

B. Financial Administration Act

1. Description

a. Primary and subsidiary issues

The Financial Administration Act ("FAA") was enacted in 1982. It establishes the mechanism for control and accountability of the government's resources. A review of the Act was undertaken to assess whether the framework provided therein was effective and to determine if changes to the Act are required to improve the control over and the accountability for government's resources.

Our review identified issues in the following areas:

- Roles and responsibilities

  Part 2 of the Act sets out the duties of the Minister of Finance and Corporate Relations, other ministers, Treasury Board and the Comptroller General. Those duties need to be clearly defined to provide for delegation of authority, clear delineation between the parties and the assignment of appropriate responsibilities.

- Effective reporting for control and accountability

  The Act's financial reporting framework applies to "government". "Government" is defined for purposes of the Act, to essentially refer to the ministries. It does not include Crown corporations or other public bodies. The Financial Information Act ("FIA") applies to certain Crown corporations and other public bodies. However the financial reporting requirements provided for in the FIA are limited. A framework for financial management and control of Crown corporations and other public bodies is required.

  Parts 3 and 4 of the Act outline, in broad terms, the form and content the public accounts and estimates should take. The Treasury Board is responsible for developing the specific form and content requirements. The present reporting requirements may not be sufficient to permit an adequate evaluation of the efficiency and effectiveness of government programs.

- Accounting policies and procedures

  There may be a lack of compatibility between the accounting policies and practices established under the FAA used to prepare the Public Accounts and those used to prepare the Estimates. The Public Accounts are prepared on an accrual basis while the Estimates are essentially

prepared on a cash basis. This inconsistency may result in inefficient and ineffective practices.

b. Entities involved

The FAA defines "Minister of Finance" to mean the Minister having administration of the Act. The Ministry of Finance and Corporate Relations ("Finance") is charged with the responsibility of administering the Act. The Treasury Board, Office of the Comptroller General and Provincial Treasury Division are the organizations between which most of the tasks under the Act are divided.

c. Related issues

Due to the broad scope of the FAA there are many related issues. These come under the broad context of financial management of the public purse. Some of them are set out below:

- Organization and responsibility

  In the FAA the responsibilities of the Minister of Finance and Corporate Relations and the duties of the Treasury Board are broadly defined. As such, their duties and functions are not easily determinable. The organizational structure and degree of responsibility assigned to the Minister of Finance and Corporate Relations for the management of public funds will have some impact on the extent to which he and/or Treasury Board centrally control such funds. The degree of central control will have an impact on the economy, efficiency and effectiveness of government.

- Accountability of Crown corporations and other public bodies

  The FAA generally does not apply to Crown corporations, hospitals and school boards and other organizations commonly referred to as public bodies yet these organizations account for a substantial part of government resources (see the issue paper on Crown Agency Accountability). Legislation designed to provide a framework for control and accountability, comparable to the application of the FAA to ministries, does not exist for public bodies. The FIA does require certain Crown agencies to submit historical financial information for legislative review and in certain cases the legislation establishing the particular entity may also contain provisions addressing accountability issues. For example the B.C. Transit Act, the B. C. Building Corporation Act and the B.C. Ferry Corporation Act all require audited financial statements to be prepared and annual reports tabled in the Legislative Assembly.

There is currently a necessary review of the management and control of Crown corporations and agencies by the Crown Agency Secretariat. We understand its purpose is to develop a new framework for effective management of such entities. The role the FAA should play in the new framework should be considered.

- Revenue collection, recoveries and cost-sharing

The issues of revenue maximization in relation to collection and recoveries are affected by the FAA in the following manner:

- The FAA authorizes the use of remission orders which have a direct affect on revenue.
- The FAA, through regulations, establishes the interest rate to be charged to persons owing money to the government. The rate of interest has an impact on the timing of revenue collection.
- The FAA establishes the procedures for writing off assets and uncollectible debts and for forgiving debt, all affecting revenue.

- Treasury function

The Provincial Treasury is charged with the task of investing and managing government funds in order to maximize the yield given a certain level of risk. The FAA provides for the establishment of Provincial Treasury Operations by causing a special account to be created to fund those operations. The FAA also provides for the ongoing funding of Treasury. The Act has an indirect impact on the Treasury's ability to provide services by affecting the revenue available to Treasury.

The FAA describes the eligible investments for public funds. Thus the FAA has an impact on Treasury's ability to meet its mandate to maximize yields given certain risk levels.

The Issue Papers on Treasury and on Financial Controls deal with these matters.

- Personnel and shadow FTEs

  The government hires long-term contract workers as well as permanent employees. In this case the issue is whether the government and B. C. taxpayers benefit from the use of contract workers rather than permanent employees.

  The FAA provides that "the number of full time equivalent staff in a Ministry shall not exceed the number set out in the estimates of revenue and expenditure, except with the approval of the Lieutenant Governor-in-Council". The FAA may have a direct impact on the levels of contract workers used as the need for direct approval is required to increase full-time equivalent staff but not to hire contract workers.

- Accounting policies (cash versus accrual)

  The FAA authorizes Treasury Board to establish accounting policies and practices, including the form and content of the financial information to be prepared by the ministries. The policies and procedures designed by Treasury Board for the preparation of the public accounts essentially dictate that the accrual basis of accounting be used. However, the annual submission of estimates and the approval of appropriations as set out in the FAA is done on a cash basis.

  The compatibility of provisions in the FAA must be considered when reviewing accounting policy issues.

2. Government policies

In 1980 a Discussion Paper was prepared by the then Ministry of Finance proposing a new Financial Administration Act. That paper became the financial legislation establishing government policy in the area of financial management, control and accountability of government resources.

In many respects the FAA, which was enacted in 1982, provides an effective framework for financial management control and accountability. However, there are aspects of the FAA that should be reviewed to determine whether any amendments to the FAA should be made to improve the framework. The legislation pertaining to the areas of the Act relevant to our review is discussed below. (See Appendix for extracts from the FAA.)

a. Roles and responsibilities

- The Minister of Finance and Corporate Relations ("Minister of Finance")

  Section 6 of the Act describes the duties and responsibilities of the Minister of Finance. Those duties include overseeing the revenues, expenditures and fiscal policies of the ministries, and responsibility for the control and direction of their financial affairs. Specific duties and authorities of the Minister of Finance are also laid out in specific provisions of the FAA. Under section 6 each Minister is responsible for the administration of the financial affairs of his Ministry.

- Treasury Board

  Section 4 of the Act describes the broad responsibilities of Treasury Board. Section 4 states "the Treasury Board shall act as a committee of the Executive Council in matters relating to . . ." and then lists significant matters such as accounting policies, program evaluations, and management of government personnel, expenditures, assets, practices and systems. It is not clear in section 4 whether Treasury Board is responsible for these areas or is to only act as an Advisory Board to the Executive Council. In practice, Treasury Board has assumed responsibility for these areas.

  As in the case of the Minister of Finance and Corporate Relations, specific duties and responsibilities of Treasury Board are provided for in specific provisions in the Act. For example Treasury Board has authority to write off investments, to set interest rates, to recommend special warrants and to set limits or conditions on expenditures under any appropriation.

- Comptroller General

  Section 8 of the FAA describes the duties of the Comptroller General. The duties include preparing the financial statements of the Ministries, preparing the public accounts and evaluating accounting and financial management systems.

b. Effective reporting for control and accountability

► Crown corporations and other public bodies

Part 1 of the FAA defines relevant terms. In particular it defines "government", "public money", "public debt" and "public property". Government, to which the Act generally applies, as defined, does not include Crown corporations or other public bodies such as hospital and school boards or universities and colleges.

Public money, public debt and public property refer to the money, debt and property of the Ministries. Once again, by definition, the money, debt and property of Crown corporations are not included in the application of the FAA.

The Financial Information Act (FIA) applies to Crown corporations and other public bodies listed in Schedules 1 and 2 of that Act. That Act requires those organizations to prepare financial statements and schedules itemizing debt, guarantees and indemnities, salaries and expenditures. There is no requirement to prepare expenditure budgets or forecasts. Furthermore, not every Crown corporation or public body is included in those Schedules.

The framework for financial management and control set out in the FAA and applicable to Ministries is substantially more developed than the financial framework that applies to Crown corporations and other public bodies set out in the FIA or the particular Act establishing the Crown agency.

► Public Accounts and Estimates

- Public Accounts

Section 8 of the FAA describes in detail the various statements and schedules required in the annual submission of the financial statements of the government. Section 8 also lays out the information required in the Public Accounts. It does not, however, define the government's principal or summary financial statements. In practice, the Public Accounts include summary financial Statements, the financial statements of Crown corporations and other public bodies, and those of the Consolidated Revenue Fund.

The financial statements of Crown corporations and other public bodies are prepared in accordance with the FIA or the applicable Act establishing the public body.

- Estimates

  The FAA adheres to the general principle that all expenditures be reviewed and approved annually by the Legislative Assembly through the use of annual estimates of expenditure and the Supply Act. The FAA requires that no money shall be paid out of the Consolidated Revenue Fund without the authority of an appropriation which, in turn, requires the passage of a Supply Act that is based upon the estimates of expenditures presented to the Legislative Assembly. Estimates are submitted annually pursuant to section 20 of the FAA.

c. Budgetary policies (revenue and expenditures)

► Revenue

Part 3 of the FAA provides the legislative framework for financial management and control of revenue. That part establishes the Consolidated Revenue Fund, which consists of the general fund and special funds. It also authorizes Treasury Board to write off assets and determine interest rates on overdue accounts and it contains the provisions dealing with the remission of tax.

► Expenditures

In addition to the submission of estimates to the Legislative Assembly, the FAA contains specific provisions designed to control expenditures. In particular the FAA provides that:

- appropriations not expended by the end of the fiscal year lapse. An approved appropriation for a year cannot be carried forward and utilized in the next fiscal year.

- the Treasury Board can limit an expenditure under an appropriation.

- the ministries cannot agree or undertake to spend an amount in excess of the appropriation for the year.

- if the Legislative Assembly is not in session, then, provided an expenditure not foreseen is urgently and immediately required for the public good, a special warrant may be used to authorize the expenditure.

3. Government practices

a. Effective reporting for control and accountability

- Crown corporations and other public bodies

The financial information submitted to the Legislative Assembly by Crown corporations and other public bodies in accordance with the FIA has generally consisted of audited financial statements and schedules. The information describes the operating results for the prior fiscal year. For those Crown corporations and public bodies that are not subject to the FIA, similar financial information is generally provided to the Legislative Assembly in accordance with the particular Act that applies to the public body.

Financial information such as budgets, forecasts, goals and objectives, and performance evaluation reviews are, however, not generally provided to the Legislature by these entities.

In some cases, Crown corporations and other public bodies provide budgets, forecasts, etc., to Treasury Board or Cabinet. In particular, those entities that require annual government grants appear to be more receptive to requests for, say, future-oriented information and budgets than those entities that are regarded as self-sufficient because their revenue, and/or recoveries equal or exceed their expenditures. (See the Issue Paper on Crown Agency Accountability for further discussion on the reporting requirements for Crown agencies.)

The Estimates of revenue and expenditures each year include the grants and contributions required by each Ministry to fund various programs undertaken by Crown corporations and other public bodies. For example, the Ministry of Health includes in its estimates an estimate of grants and contributions to fund hospital programs, which for the 1992 fiscal year amounted to approximately $2.5 billion. No further information or significant details of that amount is provided in the estimates except for a brief vote description in respect of hospital programs.

In another example, the Ministry of Transportation and Highways includes in its estimates contributions required to fund operating losses of the B. C. Railway Company, B. C. Ferry Corporation and the B. C. Transit Authority aggregating approximately $120 million in 1992. There is no additional information in respect of those operating contributions other than the comparable 1991 amounts, an allocation between the three entities and a very brief vote description.

- Ministries

The duties of Treasury Board described in the FAA include the requirement to evaluate government programs for economy, efficiency and effectiveness. However, we understand that Treasury Board has not traditionally carried out any significant evaluations of government programs. The policies and procedures described in the Financial Administration Operating Policy manual ("FAOP") do not require the submission of future-oriented financial information, (e.g., forecasts, three- to five-year plans), short- to medium-term goals and objectives, performance targets (i.e., internal efficiency, quality of service or other quantitative and qualitative measures) or other information that would be necessary to carry out an effective evaluation of programs.

b. Accounting practices

- Financial reporting

The FAOP was developed to support Treasury Board's and Comptroller General's duties and responsibilities under the FAA. As stated in the manual, its purpose is:

> "to define the government's objectives for financial administration and to indicate a course of action for deputy ministers and their officers to follow in discharging their responsibilities for financial administration. The manual sets down **policies** relating to the government's system of financial administration, which direct the course of action which ministries **shall** follow. Adherence to these policies is considered essential in meeting the general requirements of the Act. The manual also provides **guidelines** which **should** be followed in adhering to the policies and general requirements of the Act."

The FAOP consists of chapters containing policies and procedures on many facets of the FAA including chapters on:

- responsibility for financial administration and management
- accounting policies requiring reporting on the consolidated revenue fund, accrual accounting and outlining specific policies for specific assets and liabilities
- budgetary and expenditure controls which detail the procedures for submitting estimates
- control procedures in respect of assets and liabilities including procedures for giving guarantees and indemnities

- revenue control that includes remission order procedures and debt write-off procedures

- financial reporting requirements.

The FAOP includes procedures intended to facilitate the preparation of the Public Accounts and Annual Estimates.

The Public Accounts are reviewed by the Legislative Assembly and have generally been released to the Legislative Assembly and public in the first quarter of the calendar year commencing after the end of the fiscal year. However the 1991 Public Accounts were released on December 30, 1991, considerably earlier than in prior years.

The Estimates of revenue and expenditures are also approved by the Legislative Assembly. The Estimates include:

- summary Information on Revenue and Expenditures of the General Fund.

- government Estimates.

- schedules that include a summary of full time equivalent employment and expenditure by function.

The prior year's Estimates, together with the Estimates for the next fiscal year are disclosed. The Estimates also contain a "vote description" that briefly states the purpose of each vote. The descriptions may be for each sub-vote in certain cases.

When Estimates are not approved by the Legislative Assembly for the next fiscal year before the commencement of that year, an interim Supply Act is approved to provide the authority for ongoing expenditures. Recently, since the Legislative Assembly has not been sitting, special warrants have been issued to authorize continued operating expenditures.

► Cash versus accrual accounting policies

- Write offs

  The FAOP sets out the policy for including write offs and an allowance for doubtful accounts in respect of loans etc., in the public accounts. As a result write offs and allowances are included in the determination of the surplus/deficit reported in the Public Accounts for the year. On the other hand there are no provisions in the FAA and no policies in the FAOP for including write offs and

allowances for doubtful accounts in the estimates of revenue and expenditures.

One of the functions of the Estimates process is to project the surplus/deficit expected for the next fiscal year. Under current practice write offs pursuant to Section 14 of the FAA, although included in the Public Accounts, are never included in the estimates for a year if no allowance in respect of the write off has ever been provided for in the estimates. It is not common practice to record an allowance for doubtful accounts in the Estimates. Including write offs and allowances in the Public Accounts but not in the Estimates is one factor that can result in a discrepancy between the projected surplus/deficit per the Estimates and the surplus/deficit reported in the Public Accounts.

- Appropriations

Appropriations authorized for a fiscal year by a Supply Act lapse at the end of that fiscal year. In some cases the practice of accelerating expenditures shortly before the fiscal period ends in order to utilize an unexpended balance of an appropriation has been followed. This practice can result in poor economic decisions.

c. Budgetary practices

- Expenditure

Treasury Board, as a committee of Cabinet, is responsible for the overall financial management and control of the government. In practice, Treasury Board exercises its authority to manage finances through the Estimates process. That process is essentially one to control expenditures. Under FAA, Treasury Board can control or limit expenditure under any appropriation, set conditions on any kind of expenditure and approve increased expenditures in cases where recoveries have exceeded estimated amounts.

- Personnel

An estimate of the full-time equivalent employees required is included in the Estimates. The number estimated for employees cannot be exceeded without approval. In some cases government practice has been to hire long-term contract workers rather than employees, as approval is not directly required to hire contract workers. This rationale for hiring contract workers may lead to personnel practices that are not the most efficient and effective. (See the Issue Paper on Personnel, Shadow FTEs and Collective Bargaining for further discussion.)

4. Basis of assessment

The financial legislation (FAA and FIA) was reviewed to determine its effectiveness in providing a framework for control, accountability, and fiscal responsibility and promoting efficiency and effectiveness over the longer term. The appropriateness of measurement standards, the timeliness of information, the level of decision-making and authority and the completeness of the entities subject to the legislation were all considered for review. In reviewing the appropriateness of measurement standards, appropriate accounting policies, including the recommendations of PSAAC on financial management practices, were considered.

The review also included a review of the federal and other provincial Financial Administration Acts.

- Federal Statute

  The federal Financial Administration Act contains provisions similar to those found in the FAA of B.C. The federal Act provides for annual lapsing of unutilized appropriations in the same manner as Section 23 of the FAA of B. C. and the federal criteria for the use of special warrants is similar to section 21 of the FAA of B.C. The Public Accounts are to be reviewed by Parliament in the same time frame as that required in B.C.

  The federal Act differs from B.C.'s Act in two significant areas:

  - The federal Act devotes a significant part to legislation dealing with the framework for the financial management and control of Crown corporations. The Act requires an annual corporate plan to be submitted by Crown corporations for approval by the Governor-in-Council. The annual plan must include the corporations' objectives and strategy, a comparison of results to the previous plan, an operating budget and a capital budget. The Act contains provisions addressing record keeping, audit requirements and reporting to Parliament including the requirement for a special examination. A special examination of each Crown corporation is to be carried out at least every five years. The purpose of a special examination is to determine if the financial and management control and information systems are maintained so as to provide reasonable assurance that the Crown corporation's assets are safeguarded and controlled and it is managing its resources economically and efficiently and its operations are carried out effectively. In effect, this requirement amounts to a value-for-money audit.

- The federal Act contains more detailed policy in respect of the write-off of assets and uncollectible debts. As in B.C., Treasury Board is empowered to set policy in this regard. However, the federal Act provides that no debt or obligation may be written off unless the amount written off is included as a budgetary vote in an appropriation Act or unless otherwise authorized under any other Act. Any debt or obligation written off during a fiscal year must be included in the Public Accounts for that year.

► Alberta Statute

The Alberta Financial Administration Act is similar to that of B.C. but it also applies to provincial corporations, which are defined to include Crown corporations and their subsidiaries. However, there is a list of public bodies that are generally excluded from the Act's application and the list includes hospital boards established under the Hospital Act, the Provincial General Hospitals Act and the Mental Health Act, and the boards of higher education (i.e., universities, colleges and technical institutions). The Alberta Act provides for the lapsing of appropriations and for special warrants. The Public Accounts are not required to be submitted to the Legislature at any particular time but are due as soon as possible.

► Ontario Statute

Ontario legislation comparable to the FAA of B.C. is found in three Ontario statutes; the Financial Administration Act; the Ministry of Treasury and Economics Act; and the Ministry of Revenue Act. The consolidated revenue fund set out in the Ministry of Treasury and Economics Act consists of all public money which includes funds deposited in the name of agencies of the Crown as established by regulations approved by the Lieutenant Governor-in-Council. Here, too, annual lapsing of appropriations and special warrants is policy and the time frame for submitting the public accounts is similar to that of B.C.

The duties of the Treasury Board or Treasurer as they relate to government (excluding Crown corporations and public bodies) described in the federal FAA and the Alberta Act and described in the Ministry of Treasury and Economics Act of Ontario are not dissimilar to those described in the FAA of B.C. However, the Ontario and Alberta Acts do not appear to require the Treasury Boards to evaluate programs. Under the federal Act the Treasury Board may have some obligations for program evaluation as that Act defines the Treasury Board's responsibility to include a review of annual and longer term expenditure plans and programs and priorities.

5. Analysis

During the course of the review the following procedures were undertaken:

- Review of legislation:
  - Financial Administration Act and Regulations
  - Financial Information Act and Regulation
  - Financial Administration Act of Canada
  - Financial Administration Act of Alberta
  - Financial Administration Act of Ontario
  - Ministry of Revenue Act of Ontario
  - Ministry of Treasury and Economics Act of Ontario
  - Crown Agency Act of Ontario
- Reviewed the Auditor General Reports for 1986 to 1991 inclusive.
- Reviewed the Financial Administration Operating Procedures Manual.
- Reviewed the 1980 Discussion Paper proposing the new FAA and the related Task Force Report.
- Discussions with Ministry of Finance and Corporate Relations personnel.

6. Findings and conclusions

a. Roles and responsibilities

- Ministers

  Findings:

  There is a fine line to be drawn between the authority and related responsibility which has been delegated to Ministers and the need for Treasury Board to exercise effective central control.

  The role of the Minister of Finance and Corporate Relations is clearly laid out in the FAA. However, that Act contains no reference to the responsibilities of other ministers in the financial management and control and the evaluation of programs as to economy, efficiency and effectiveness except to state that they are responsible for the administration of the financial affairs of their ministries.

Conclusions:

The ministers should be accountable for the financial management and control and effectiveness of their programs as they have the authority to introduce, amend or discontinue programs. The FAA should be amended to set out that responsibility.

Section 4 of the Act, outlining Treasury Board's functions, should continue to provide for Treasury Board's involvement in financial management, control and program evaluation of the ministries since an element of central review and control is beneficial. This should set out the strategic control framework and provide for accountability of ministers back to Treasury Board.

- Treasury Board

Findings:

Section 4 of the Act states "The Treasury Board shall act as a committee of the Executive Council in matters relating to ...". As described earlier, it is not clear, under those terms, whether Treasury Board is responsible for the matters referred to or is simply to act as an advisor. In addition it is not clear whether Treasury Board must act on all the matters described. For example one of the issues is the evaluation of programs which is one of the stated duties of Treasury Board. It is not clear whether Treasury Board is **required** to evaluate government programs; its practice has not been to evaluate them in any significant way.

Conclusions:

Section 4 of the Act should be amended to clarify that Treasury Board is responsible for the matters listed therein and is required to implement procedures to meet that responsibility.

b. Effective reporting for control and accountability

- Crown corporations and other public bodies

Findings:

The financial reporting requirements contained in the FAA do not apply to Crown corporations and other public bodies. These entities are only required to provide limited historical financial information.

The 1980 Discussion Paper prepared by the Ministry of Finance and Corporate Relations had originally proposed a separate part of the FAA

to deal with "public bodies". In particular, legislation was proposed to require public bodies to produce audited financial information, operating and capital budgets supported by forecasts, and to pay dividends. Furthermore, it was proposed that the Lieutenant Governor-in-Council make regulations prescribing the information to be provided before a grant, loan, etc. was made to a public body. Public body was defined to include Crown corporations, commissions and boards such as school boards and hospital boards.

As a result of recommendations of the Task Force on the FAA, the part dealing with public bodies was removed from the proposed legislation. In making the recommendation the Task Force stated "that the activities of public bodies are a legitimate concern of Treasury Board and the Minister of Financeand Corporate Relations, who are jointly responsible to the Executive Council for the financial affairs of the government, because of the substantial portion of government spending ... channeled through these organizations ... This recommendation is not intended to suggest that the objectives of accountability and control of public bodies ... are not valid, because they are valid, but to reflect the fact that the issues involved are far too important and complex to be addressed as a minor part of a major Act ..." The Task Force concluded that for public bodies "some central direction is required to ensure that appropriate systems are established and maintained for all public bodies, with some consistent standards to assist those involved in overall government policy review and planning".

In the 1990 Auditor General's Report, in a section on Accountability of Crown corporations to the Legislative Assembly, he commented on the need for an improved framework for reporting on the financial and operational performance of Crown corporations. The Report discussed the need for a framework to assess the effectiveness of Crown corporations.

Conclusions:

To promote economy, efficiency and effectiveness in government, a framework is needed for reporting and evaluating the financial and operational performance of Crown corporations and other public bodies. The principles behind the recommendations of the 1990 Auditor General's Report should apply to all public bodies.

The financial legislation to establish the framework may be introduced as an amendment to the FAA, the FIA or as a new Act. Comprehensive legislation covering all public bodies may not be feasible. A separate Act dealing solely with Crown corporations while the FIA is amended in respect of other public bodies could be considered.

The legislation should include provisions setting out:

- the appropriate minister is responsible subject to overall support from the Crown corporation secretariat, for evaluating programs of the Crown corporations and other public bodies for effectiveness.

- the financial information required, including performance statistics, to evaluate efficiency and effectiveness.

- annual budgeting requirements, including details on budgetary revenue and expenditures.

- dividend policies.

► Government ministries

Findings:

The FAA bestows on Treasury Board the authority to deal with matters relating to, among other things, the evaluation of government programs. By virtue of section 20 of the FAA, Treasury Board has the authority to determine the ministries' financial reporting requirements. That authority is broad enough to require information deemed necessary to carry out an evaluation of ministry programs. Our review indicates that Treasury Board does not regularly evaluate programs and that there are no policies or procedures in place to facilitate such an evaluation. However, before approving a particular program the Treasury Board may require the appropriate ministry to evaluate the program.

Conclusions:

As with Crown corporations and other public bodies, program evaluation is necessary to effectively allocate ministries' resources. The FAA provides the framework for program evaluation to access efficiency and effectiveness.

The FAOP should be expanded to include policies and procedures for reporting on program economy, efficiency and effectiveness. Each ministry should be responsible for determining their goals and objectives and for establishing criteria to evaluate their performance in respect of those goals and objectives. The procedures should include reporting on program evaluation in the public accounts. Treasury Board would continue to be responsible for reviewing the Public Accounts and the Estimates which would now include additional information to enable Treasury Board to review the efficiency and effectiveness of programs.

c. Expenditure and budgetary controls

- Revenue

Findings:

One of Treasury Board's responsibilities is the financial management and control of the ministries. The FAA provides Treasury Board with sufficient authority to manage and control expenditures of the ministries. However, the FAA does not provide Treasury Board with direct influence over the revenues of ministries. While the FAA authorizes Treasury Board to limit, change and approve expenditures, comparable authority for Treasury Board in respect of revenues (including licences and fees of ministries) is not provided. Although Treasury Board has indirect influence on budgetary revenues through the Estimates process, that may not always be sufficient to enable it to carry out its financial management duties. This affects Treasury Board's ability to effectively manage resources.

Conclusions:

The FAA should include a provision that authorizes Treasury Board to review ministries' revenue policies and issue directives in respect of such revenue sources. This will enable Treasury Board to more effectively carry out its responsibilities in centrally managing ministries' resources. However, we do not believe that the Minister of Finance and Corporate Relations' traditional role in setting tax rates or introducing tax measures would be affected by this.

- Lapsing of appropriations

Findings:

The expiration of appropriations at the end of a fiscal year pursuant to Section 23 of the FAA may encourage the practice of accelerating expenditures by buying goods and services before the end of the year in order to use up any remaining balance of an authorized appropriation.

In its review of the annual lapsing of the appropriations provision in the FAA, the Task Force essentially agreed with its implementation but recommended a review of the appropriations and lapsing mechanisms. The Task Force felt annual lapsing "may provide undesirable incentives to make unproductive expenditures near the end of a fiscal year".

Conclusions:

The implementation of an improved framework for reporting operational results suggested above should contribute to a better use of resources and act to discourage the practice of incurring non-essential expenditures due to time constraints. Some other alternatives that might be considered to help overcome the practice are:

- maintain a separate account within each ministry to which the lapsing provisions do not apply. The account could be disclosed in the annual Estimates and submitted for Legislative approval annually. If the appropriations to the separate account exceeded expenditures from that account for a year, the excess appropriations would carry forward to the subsequent year. The Estimates could include a summary of appropriations carried forward to keep the Legislative Assembly abreast of the amount so that action could be taken if it became significant to the current year's funding requirements.

- provide that a certain percentage of a ministry's appropriation does not lapse at the end of the year, but carries forward to the next fiscal year. This alternative is similar to the above alternative but may be simpler to administer. However, ministers must be assured that Treasury Board will not simply use such funds to reduce the subsequent year's appropriation, or all incentive will be lost. The need to monitor appropriations carried forward for funding purposes would still be a requirement.

- establish a list of specific exceptions to the lapsing provisions. Authorized appropriations for a year not to exceed a particular amount and for particular goods or services could be exempted from the lapsing provisions. Under this alternative the amount of appropriations carried forward could be restricted to any amount desirable to limit the growth in appropriations carried forward.

One or all of the above alternatives may form part of the framework to resolve this issue of accelerating expenditures near year end. Although there has been no significant evidence to suggest unnecessary use of funds at year-end, such hasty expenditures may not lead to the most effective management decisions. Further study is required which, subject to any recent work carried out, would initially assess the magnitude of the practice of accelerating expenditures near year-end to determine its significance.

- Special warrants

  Findings:

  Special warrants, as provided in Section 21 of the FAA, have been utilized to obtain funds from the General Fund in situations that might not be considered as urgently and immediately required for the public good. There is a risk that special warrants may be used to initially circumvent Legislative Assembly's authority and control over public funds, although the appropriation must eventually be part of the next Supply Act.

  In certain instances, special warrants have been used to fund regular government operations because the Legislative Assembly is not in session.

  Conclusions:

  There is a need for special warrant provisions because unforeseen funding requirements can arise when the Legislative Assembly is not in session. However, the intent that they only be used in exceptional circumstances should be emphasized and encouraged. To this end, we recommend that the FAA be amended to require that the Lieutenant Governor-in-Council state the reasons, in writing, why a special warrant is urgently and immediately required for the public good. Furthermore, we recommend that an annual statement of all special warrants and an explanation of their urgency be included with the Public Accounts, as well as in the next Supply Bill.

- Full-time equivalent employees

  Findings:

  The submission of estimates for revenue and expenditures includes an estimate of full-time equivalent staff which cannot be exceeded except with the approval of the Lieutenant Governor-in-Council. This has, in certain cases, encouraged the hiring of contract staff on a long-term basis. Obtaining long-term contract staff rather than employees may or may not be beneficial. The decision to hire contract staff rather than employees should be made in relation to economy, efficiency and effectiveness and not based upon whether it is easier to hire contract staff than obtain approval for increasing the full-time equivalent staff set out in the Estimates.

The Estimates establish government funding which has a direct impact on the hiring of full-time equivalent staff. Setting limits for employee numbers in the estimates, as well, is redundant. The appropriate control is over the funding given related to employee costs.

Conclusions:

It is important not to lose the capability to measure inputs and provide for productivity measures. However, the FTE limits imposed have engendered poor management practices and used excessive time in monitoring picayune behaviour.

Subsection 20 (6) of the FAA requiring Lieutenant Governor-in-Council approval to increase staff levels should therefore be repealed.

d. Accounting policies and practices

- Write-off and allowances

Findings:

Policies and procedures are in place to ensure accounts written off or allowances provided for doubtful accounts are included in the public accounts for the fiscal year in which the write-off or allowance is made. However write offs or allowances are usually not provided for in the Estimates. If allowances are recorded in the Estimates for a particular year there is no procedure to reconcile those allowances to the allowance set up in the Public Accounts for that year. As a result, the anticipated surplus/deficit for a year as shown in the Estimates may not agree with the surplus/deficit recorded in the Public Accounts.

To improve the matching of the estimated write-offs with the recording of write-offs in the public accounts, the federal Financial Administration Act requires that a debt cannot be written off and thus recorded in the public accounts, unless the amount written off is included in a budgetary vote in an appropriation Act or unless otherwise authorized under any other Act of Parliament.

Conclusion:

The application of the federal statute should be reviewed to determine if it facilitates a better matching of write-offs and allowances in the Public Accounts to the Estimates and thereby creates better compatibility between the estimated surplus/deficit and the actual surplus/deficit for a year. If so, the FAA should be amended to include a provision similar to that included in the federal Act.

- Release of Public Accounts

  Findings:

  In the past, the Public Accounts have generally not been released to the public or the Legislative Assembly until the first quarter of the calendar year commencing after the end of the fiscal year.

  Conclusion:

  In view of the important part the Public Accounts play in financial management and control, and particularly if the information in the Accounts is to be expanded to include performance measurements etc., consideration should be given to releasing the Public Accounts when completed.

C. Taxpayer Protection Act

1. Government policies

The Taxpayer Protection Act ("TPA") was passed on March 22, 1991. The reason for introducing the Act was summed up in the 1991 Budget Papers:

> *In the 1990 Budget, the need for multi-year budgeting was recognized. It was argued that this would allow for better program planning and avoid the stop-start funding that is characteristic of an annual budget focus. In addition, a multi-year budget plan allows the government more flexibility in addressing cyclical swings in revenue and expenditure.*

The Taxpayer Protection Act stipulates that, in the Balanced Budget Plan:

- total expenditures must not exceed revenues over the five-year period covered by the Plan.
- expenditures, in the first year of the Plan, cannot grow faster than the average annual rate of economic growth over the most recent five years.

These budget controls will ensure that the government's budget is balanced over a typical economic cycle and that the size of government relative to the provincial economy will not increase.

The TPA consists of two parts:

- **Part 1: Tax rate freeze—(revenue limitations)**

  Part 1 introduces a "tax rate freeze period" beginning on January 30, 1991 and ending on March 31, 1994. During that period the tax rates imposed under various Acts cannot be increased. The Acts to which the freeze applies are:

  - Corporation Capital Tax Act
  - Fire Services Act
  - Horse Racing Tax Act
  - Hotel Room Tax Act
  - Income Tax Act
  - Insurance Premium Tax Act
  - Logging Tax Act
  - Mineral Land Tax Act
  - Mineral Tax Act
  - Mining Tax Act
  - Property Purchase Tax Act
  - Social Service Tax Act

  The TPA also contains a provision designed to prevent the introduction of new taxes during the tax rate freeze period.

- **Part 2: Expenditure limitations—(budgetary)**

  Part 2 of the TPA sets out the requirement for presenting a five-year "Balanced Budget Plan" to the Legislative Assembly at the same time the Estimates are presented. A plan is required to be submitted every year covering the next five years.

  The forecast expenditures for the five-year period covered by the Plan cannot exceed forecast revenues. Furthermore, the forecast increase in expenditures is subject to certain limitations. In particular, the rate of increase in forecast expenditures cannot exceed a certain percentage determined based upon a formula that refers to the rate of increase in B. C.'s gross domestic product. The Balance Budget Plan applies to the General Fund only.

  In addition to the Balanced Budget Plan, the Minister of Finance and Corporate Relations must prepare a Debt Reduction Plan that must also be presented to the Legislative Assembly on the date of tabling the estimates. The Debt Reduction Plan applies to the public debt of the province.

Finally, the TPA requires the Minister of Finance and Corporate Relations to prepare a Balanced Budget Progress Report each year commencing in 1992. The Report is to show the forecast surplus/deficit for the year then ended and the cumulative surplus/deficit of the General Fund since March 31, 1991.

2. Government practices

The first Balanced Budget Plan and Debt Reduction Plan required by the TPA were tabled on May 31, 1991 with the 1991 Budget.

- **Balanced budget plan**

  The Balanced Budget Plan covers the period from April 1, 1991 to March 31, 1996. The plan described the economic assumptions and forecast an accumulated surplus/deficit in the General Fund for that period of nil (i.e., balanced). Achieving that balance was based upon a forecast surplus of $1.1 billion in the 1995/96 fiscal year.

- **Debt reduction plan**

  The Debt Reduction Plan consisted of a summary of B. C.'s debt position in relation to the other provinces and Canada and some general comments. It did not describe a detailed plan for reducing the public debt but indicated that government debt as a percentage of gross domestic product will decline by March 31, 1996.

3. Findings and conclusions

1. Scope of legislation

- Application of TPA

Findings:

(a) The Balanced Budget Plan applies to the General Fund only. It does not apply to other funds within the Consolidated Revenue Fund nor to government organizations and enterprises, notwithstanding that such entities account for a significant component of the government's revenues and expenditures. Therefore, a substantial part of the government's overall revenues and expenditures are excluded from the Balanced Budget Plan.

(b) The Debt Reduction Plan applies to the "public debt of the Province" which is not defined in the Act. The Plan submitted with the 1991 Budget states that the debt referred to in the Act is

the "direct debt for government purposes". As such, the Debt Reduction Plan does not include debt of government organizations and enterprises such as Crown corporations which, again, account for a significant portion of the government debt.

The requirement for the Minister of Finance and Corporate Relations to submit a five-year Balanced Budget Plan every year means that for any particular five-year period, five plans at various stages would apply in that period. For instance, by March 31, 1995 five Balanced Budget Plans will have been submitted covering five-year periods ending March 31, 1996 to March 31, 2000.

(c) The Balanced Budget Progress Report is submitted annually with the tabling of the Estimates. It discloses the forecast surplus/deficit for the preceding year. The report would appear to have no relevance to the Estimate submission.

The report also discloses the cumulative surplus/deficit of the General Fund since March 31, 1991. The cumulative surplus/deficit reported in the Progress Report would not be directly comparable to the Balanced Budget Plans submitted for five-year periods commencing after March 31, 1992. The Report would only be comparable to the first Balanced Budget Plan submitted in 1991.

Conclusions:

Overall the concepts of a Debt Reduction Plan and Balanced Budget Plan are sound and are fundamental to an effective deficit reduction strategy. However, to be effective in multi-year budgeting and program planning for all government resources, a Balanced Budget Plan should be expanded to encompass the Consolidated Revenue Fund and government organizations and enterprises. The revenues and expenditures of the General Fund are affected by the revenues and expenditures of government organizations and enterprises. Ignoring these entities in the budget process could undermine the process. Excluding special funds from the Plan could also undermine the Plan's effectiveness and give rise to discrepancies and anomalies as special funds are created or repealed.

We recommend repealing the Taxpayer Protection Act and that consideration should be given to either replacing it with new legislation

or with a highly visible government policy document, possibly presented as part of the budget papers.

- Other Financial Legislation

Findings:

Authority for appropriations from the General Fund is obtained through the Estimates process established in the FAA and the Supply Act. Notwithstanding the importance of the FAA in establishing the authorized appropriations from the General Fund, the FAA contains no reference to the Balanced Budget Plan described in the TPA. The Balanced Budget Plan will have little if any impact in achieving a balanced budget if it has no inter-relationship with the process of authorizing expenditures.

Conclusions :

The FAA should be amended to require a review and comparison of the forecasts in the Balanced Budget Plan to the Estimates of revenue and expenditures as submitted. Differences between the Plan and the Estimates should be accounted for and reconciled and may lead to amendments to the Plan or Estimates.

b. Budgetary process

Findings:

The Minister of Finance and Corporate Relations is charged with preparing a Balanced Budget Plan. In completing that task two significant limitations are imposed on the Minister. First, there is a limitation on the Minister's ability to increase the revenues of the General Fund due to the tax rate freeze imposed under the TPA to March 31, 1994. Second, the rate of growth in forecast expenditures used in the Balanced Budget Plan cannot exceed the average annual rate of growth in B.C.'s GDP. According to the 1991 Budget these revenue and expenditure control mechanisms provide discipline and control over spending and steady its rate of growth.

Conclusions:

(a) Multi-year budgeting is a necessary part of the framework for effectively managing government resources. However, to be effective, the budgetary process should utilize the best available forecasts of revenues and expenditures. Establishing limits in the budgetary process that lead to inaccurate forecasts of expenditures

could undermine the effectiveness of multi-year budgeting. On the other hand, introducing limits on expenditure forecasts in the TPA in order to control the growth in government spending is, in all likelihood, ineffective.

(b) Curtailing revenues by imposing a tax rate freeze period obliges the Minister of Finance to achieve a long-term balanced budget largely through reductions in expenditures.

Relying solely upon expenditure adjustments to produce a Balanced Budget Plan, as a tool to manage government resources, may not be the most effective approach. New taxes or increases in existing taxes before March 31, 1994 may be necessary for the effective management of government resources.

D. Budget Stabilization Fund Act

1. Government policies

The Budget Stabilization Fund Act ("BSFA") received Royal Assent on May 30, 1988. It was repealed on April 1, 1991.

The BSFA established a special fund called the Budget Stabilization Fund. The purpose of setting up the fund was to assist in stabilizing the operating revenues of the government. Essentially the Act provided that, with approval of the Lieutenant Governor-in-Council, revenue may be paid into the Budget Stabilization Fund rather than the General Fund and money may be paid out of the Budget Stabilization Fund into the General Fund.

2. Government practices

For the 1988 and 1989 fiscal years funds were transferred from the General Fund to the Budget Stabilization Fund. For the fiscal years 1990, 1991 and on April 1, 1991 funds were transferred to the General Fund from the Budget Stabilization Fund resulting in a nil balance in the latter. The effect of the 1988 and 1989 transfers has been to reduce General Fund revenue and thus increase the General Fund deficit, while in fiscal 1990, 1991 and 1992 the effect was (will be) to increase General Fund revenues thus increasing (or decreasing) the surplus (deficit) of the General Fund for those years. The budget papers released for the fiscal years 1988 to 1990 tended to emphasize the surplus/deficit position of the General Fund.

3. Findings and conclusions

Findings:

The Budget Stabilization Fund was ineffective in assisting the stabilization of the operating revenues of the government. Furthermore the establishment of this special fund proved to be very confusing to the general public and was used to obfuscate the financial results reported in respect of the General Fund.

Conclusions:

The rationale behind the use of stabilization funds in a province such as British Columbia has some merit. In this province, revenues are extremely volatile and often outside the control of government. The cyclical nature of the economy and, in particular, revenues arising from the natural resource base support the need for a mechanism which allows for excess revenues received in good economic times to be set aside for those periods when annual expenditures will exceed annual revenue. However, this mechanism, based on recent experience, should not be the Budget Stabilization Fund.

In our view, the BSFA should not be re-introduced. As was the case in the 1990/91 Public Accounts, reporting on the financial position of government should emphasize the financial position of government as a whole, as disclosed in the Summary Financial Statements. Those statements include the General Fund, all Special Funds (including the Budget Stabilization Fund) and government organizations and enterprises. A special fund such as the Budget Stabilization Fund would have no impact on the revenues, or surplus/deficit reported in the Summary Financial Statements and therefore, for this reason it serves no purpose.

E. Privatization Benefits Fund Act

1. Government policies

The Privatization Benefits Fund Act ("PBFA") received Royal Assent on May 30, 1988 and applied retroactively from April 1, 1988.

The PBFA established a special fund called the Privatization Benefits Fund, the purpose of which is to hold the net proceeds of assets disposed of through the privatization program in order to produce revenue for the benefit of the Province. Proceeds from privatization transactions are either paid into the special fund, to the extent designated by the Lieutenant Governor-in-Council, or paid into the General Fund. At the direction of the Lieutenant Governor-in-Council, earnings of the Privatization Benefits Fund can be transferred to the General Fund.

2. Government practices

Proceeds from privatization transactions were allocated to the special fund in 1989, 1990 and 1991 and accrued earnings of the special fund were paid to the General Fund in 1989 and 1990.

As at March 31, 1991, the balance in the Privatization Benefits Fund was approximately $500 million.

3. Findings and conclusions

Findings:

The 1990 Auditor General's Report, in its review of the reporting of the financial results of privatization, concluded that, although the reporting procedures complied with the PBFA, they did not provide an appropriate basis for assessing the financial results of the privatization transactions. The report concludes:

> *"The Privatization Benefits Fund financial statements were never intended to, and they do not, provide sufficient information to judge the overall financial results of privatization transactions. To do so, an entirely different basis of accountability reporting would have been required."*

The PBFA was not intended to provide the framework for evaluating the efficiency and effectiveness of the privatization program.

In some cases, net proceeds received by the Privatization Benefits Fund were from the sale of ministries' assets which, in fact, had been expensed to the General Fund in the year of purchase. This segregation of revenues and expenditures between different funds creates confusion and has led to some inconsistencies in the reported surplus/deficit of the General Fund.

Conclusions:

The rationale behind the establishment of a separate fund for extraordinary revenues received can be justified and the earmarking of funds for specific purposes is acceptable. The PBFA has ensured that net proceeds from privatization transactions have generally flowed into the Privatization Benefits Fund. However, because of the way in which monies ended up in the Fund, there has been some confusion in the minds of the public as to its purpose. Moreover, if the government accepts our recommendations to report on a consolidated basis, these funds will be reported on the financial position of the government as a whole. Given the nature of the new reporting entity recommendation, the purpose of the PBFA should be reassessed. There could well be a useful purpose served in redefining the use of the Fund, say, for

example, for directed investment purposes. If this is found not to have a useful purpose, then consideration should be given to its repeal.